

The
FEDeral Pages
Fuels and Energy Division Programs Monthly Update

December, 1995

RFG Status:

Health Concerns: While RFG requires a 15% reduction in VOCs and air toxics, there have been complaints of acute adverse health effects, mostly related to oxygenates. Numerous studies, including the most recent from the Wisconsin Department of Health, have been unable to duplicate or confirm the reported adverse effects.

Status: Currently studies are underway to review the existing information available on oxygenates. The Health Effects Institute is evaluating available research on oxygenates. The White House Office of Science and Technology Policy is evaluating information on oxygenated fuels and will develop a document which will be submitted to the National Academy of Sciences for review. Under EPA regulations concerned with the testing of motor fuels and additives, industry will conduct further health research on oxygenates. EPA is in the process of defining what types of health research will be required.

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Opt Out: Areas participating in the RFG program that were not congressionally mandated have the option of opting out of the program. There was no formal opt-out process in the original RFG and anti-dumping rule. Concerns have been raised regarding the potential of disrupting the fuel distribution infrastructure and potential price spikes as a result of uncontrolled opt-outs. This has led to an EPA proposal to establish standardized opt-out procedures.

Status: The proposal was published on June 14, 1995. The comment period closed on August 4, 1995. EPA intends to complete this rulemaking early in 1996.

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Opt In for Attainment Areas: Ozone non-attainment areas may opt into the RFG program. However no mechanism is in place that clearly allows for opt-in of attainment areas, though some have shown interest. EPA is researching the possibilities for allowing attainment areas to opt-in to the RFG program.

Status: EPA has asked for comments through the proposed opt-out rule and is reviewing the comments received, as well as assessing the extent of state s interest in this issue.

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Renewable Oxygenate: In the wake of the U.S. Court of Appeals decision to overturn the renewable oxygenate program and subsequent denial of EPA's request for a rehearing on the issue, EPA has taken action in other areas regarding the role of renewable oxygenates in the RFG program. One action that has been taken was to propose to increase the maximum oxygen content allowed in RFG in the summer. The (oxygen cap) proposal was published on October 5, 1995. EPA is also working to encourage states to adopt pump labeling requirements for oxygenates which would allow the consumer to make an educated decision on the RFG and oxygenated gasoline they purchase.

Status: The final rule regarding the maximum oxygen content of summertime RFG should be completed early in 1996. EPA has sent a letter to the Governors encouraging states to adopt pump labeling programs. On 8/4/95 the Treasury Department issued a ruling making it easier for ETBE to obtain the same tax breaks that Ethanol currently receives.

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Baselines: Roughly 94% of the refinery baselines have been approved to date. These baselines are necessary to determine compliance with both the RFG program and the anti-dumping program.

Status: Progress on baseline approvals is now dependent on getting adequate information from the refiners in a timely manner.

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Foreign Refinery Baselines: Venezuela and other countries have brought suit against the Agency in the World Trade Organization filing a GATT suit claiming that foreign refiners have been treated unfairly relative to domestic refiners in regards to the production of baselines for RFG and conventional gasoline in the U.S.

Status: EPA is defending the rule in GATT Court.

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Phase II RFG: On December 8, 1995, the American Petroleum Institute (API) submitted a petition to EPA asking for reconsideration and repeal of the Phase II RFG NOx standard. The API petition raises the same issues API raised during the RFG rulemaking: 1) The Phase II RFG NOx standard is inconsistent with the 1990 Clean Air Act amendments and the 1991 regulatory negotiation; 2) EPA has overstated the air quality benefits of the Phase II RFG NOx standard; and 3) the Phase II RFG NOx standard is not a cost-effective strategy for ozone control. EPA will consider and respond to the petition.

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Overall Outreach: EPA has worked with local governments, industry, and environmental groups to aggressively pursue outreach to show the benefits of RFG. EPA is working on improving the communications between the program

office, the regions and state officials and other interested groups to help address issues in a more timely manner .

Status: EPA has prepared a wide variety of outreach material and has begun implementing its new outreach strategy.

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Low RVP Program Status:

- * The state of Kentucky is once again faced with the decision of maintaining the RFG program or opting-out and implementing a low RVP control program. There is strong political pressure supporting both plans, with economical concerns pushing for RVP and air quality concerns arguing for RFG.
- * El Paso, Texas is looking into the viability of a low RVP program which would include Juarez, Mexico. Juarez would be unwilling to participate in the RFG program.
- * Tulsa, Oklahoma is considering adopting a two tiered low RVP requirement program, gasoline with an octane rating of 93 or more would have one standard, while regular and mid grades would have a lower RVP standard.
- * Detroit, Michigan is considering using the provisions found in 211(h) to opt into the 7.8 federal RVP program, they are currently a 9.0 area

Status: EPA is working with the individual states to provide facts on which to base a decision.

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Winter Oxy Program Status:

- * Several Northeast areas have been redesignated to attainment for CO and therefore will not be required to implement the Oxy program this season. The areas include Baltimore, MD, the Washington, D.C. CMSA (VA & MD) suburbs, Southern New Jersey and Philadelphia, PA. The Agency signed a letter granting enforcement discretion to these areas on September 29, 1995. The enforcement discretion began when the Regional Administrator signed the direct final rules to redesignate the above areas.
- * The State of New Jersey has requested a waiver from EPA for the areas of Northern New Jersey which are required to implement the program this winter. The Agency is reviewing the waiver request. The State is also in the process of appealing a court decision which requires them to implement the program this season.
- * The Raleigh-Durham, NC area has issued a temporary rule suspending the program this season and has submitted a SIP revision in order to suspend the program based on erroneous VMT data. This area has been redesignated to attainment as of September 18, 1995. The Regional

Administrator signed the proposed rulemaking to approve the SIP revision on October 27, 1995 and the Agency signed a letter granting enforcement discretion to the state on October 31, 1995..

- * The Boston Metro area was formally redesignated as attainment for CO on November 6, 1995. The redesignation will become final following a 30-day public comment period.

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Regulatory Actions:

- * Lead Fuel Ban Rule: Section 211(n) of the CAA prohibits after December 31, 1995 the introduction into commerce for use as a motor vehicle fuel, gasoline containing lead or lead additives. The ban goes into effect whether or not EPA amends its regulations by January 1, 1996 to incorporate the statutory ban. EPA is conducting rulemaking to revise its regulations so as to incorporate the statutory ban, to remove existing regulatory provisions which will no longer be necessary as a result of this ban, and to modify other provisions to reflect the institution of this ban. This rule will be promulgated as a direct final rule in the near future.

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- * Fuel Additive Rule: This rulemaking will propose a number of simplifications to the health-effects testing regulations promulgated in 1994 under the Fuel and Fuel Additive Registration program. Publication of the NPRM is expected near the end of the year.

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- * Baseline Adjustment Rulemaking: Final RFG rule contained provisions for certain baseline adjustments where compliance would be extremely burdensome with little environmental benefit. After final rule, other situations were brought to EPA's attention which EPA believed warranted adjustments.

Status : Proposal published August 4, 1995. Included proposed baseline adjustments for JP-4 jet fuel production in 1990, use of extremely low sulfur crudes in 1990 and combination of extremely low sulfur and olefin baseline values. Final rule expected in early 1996.

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- * Reduction of Baseline Information to be Published Rulemaking: Final RFG rule specified that a refiner's anti-dumping standards (i.e., baseline exhaust emissions and 125% of baseline sulfur, olefins and T90) would be published. Suit brought by API, Texaco and Star claimed competitive harm could occur. Under settlement, only emissions will still be published. The differences between the standard and the annual compliance value for sulfur, olefins and T90 would be

considered nonconfidential.

Status: Final rule deadline of December 15, 1995 (per settlement agreement)

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- * Detergent Additive Rule: A final rule establishing detergent additive certification requirements, and replacing the current interim detergent additive regulations, is expected to be promulgated by March 29, 1996 (court order deadline).

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Other Fuels Issues:

- * WSPA Testing Issues - Western States Petroleum Association (WSPA) has brought forward several issues pertaining to RFG standards including expanding the exemption utilized for CARB techniques to include gasoline produced in California, but shipped outside of the states, typically to Reno, Las Vegas and Phoenix. Other WSPA areas of concern include model limits, loss of California exemption, dual compliance requirements for ozone non-attainment RFG areas, predictive model certification, variance protocols, and blend stock accounting.

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- * Guam Petition - Guam has petitioned the EPA for a waiver from the conventional gasoline anti-dumping requirements and certain record keeping provisions in the fuel detergents rule. EPA expects to issue a direct final decision shortly.

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